

116TH CONGRESS
1ST SESSION

H. R. 2762

To amend title 10, United States Code, to provide for the modification and clarification of construction authority in the event of a declaration of war or national emergency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2019

Mr. GALLEGO (for himself, Mr. SMITH of Washington, Mr. GARAMENDI, Mr. CISNEROS, Ms. ESCOBAR, Mr. CARBAJAL, Mr. VELA, Mrs. TRAHAN, and Ms. TORRES SMALL of New Mexico) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to provide for the modification and clarification of construction authority in the event of a declaration of war or national emergency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. MODIFICATION AND CLARIFICATION OF CON-**
2 **STRUCTION AUTHORITY IN THE EVENT OF A**
3 **DECLARATION OF WAR OR NATIONAL EMER-**
4 **GENCY.**

5 (a) **LIMITATION ON AMOUNT OF FUNDS AVAILABLE**
6 **FOR NATIONAL EMERGENCY.**—Section 2808 of title 10,
7 United States Code, is amended—

8 (1) by redesignating subsection (c) as sub-
9 section (e); and

10 (2) by inserting after subsection (b) the fol-
11 lowing new subsection (c):

12 “(c) **LIMITATION ON AMOUNT OF FUNDS AVAILABLE**
13 **FOR NATIONAL EMERGENCY.**—In the event of a declara-
14 tion by the President of a national emergency in which
15 the construction authority described in subsection (a) is
16 used, the total cost of all military construction projects
17 undertaken using that authority during the national emer-
18 gency may not exceed \$250,000,000.”.

19 (b) **WAIVER OF OTHER PROVISIONS OF LAW.**—Sec-
20 tion 2808 of title 10, United States Code, is amended by
21 inserting after subsection (c), as added by subsection (a),
22 the following new subsection:

23 “(d) **WAIVER OF OTHER PROVISIONS OF LAW IN**
24 **EVENT OF NATIONAL EMERGENCY.**—In the event of a
25 declaration by the President of a national emergency in
26 which the construction authority described in subsection

1 (a) is used, the authority provided by such subsection to
2 waive or disregard another provision of law that would
3 otherwise apply to a military construction project author-
4 ized by this section may be used only if—

5 “(1) such other provision of law does not pro-
6 vide a means by which compliance with the require-
7 ments of the law may be waived, modified, or exped-
8 dited; and

9 “(2) the Secretary of Defense determines that
10 the nature of the national emergency necessitates
11 the noncompliance with the requirements of the
12 law.”.

13 (c) **ADDITIONAL CONDITION ON SOURCES OF**
14 **FUNDS.**—Section 2808(a) of title 10, United States Code,
15 is amended in the second sentence by inserting before the
16 period the following: “and that the Secretary of Defense
17 determines are otherwise unexecutable”.

18 (d) **ADDITIONAL NOTIFICATION REQUIREMENTS.**—
19 Section 2808(b) of title 10, United States Code, is amend-
20 ed—

21 (1) by striking “of the decision” and all that
22 follows through the end of the subsection and insert-
23 ing the following: “of the following:

24 “(A) The reasons for the decision to use the
25 construction authority described in subsection (a),

1 including, in the event of a declaration by the Presi-
2 dent of a national emergency, the reasons why use
3 of the armed forces is required in response to the
4 declared national emergency.

5 “(B) The construction projects to be under-
6 taken using the construction authority described in
7 subsection (a), including, in the event of a declara-
8 tion by the President of a national emergency, an
9 explanation of how each construction project directly
10 supports the immediate security, logistical, or short-
11 term housing and ancillary supporting facility needs
12 of the members of the armed forces used in the na-
13 tional emergency.

14 “(C) The estimated cost of the construction
15 projects to be undertaken using the construction au-
16 thority described in subsection (a), including the
17 cost of any real estate action pertaining to the con-
18 struction projects, and certification of compliance
19 with the funding conditions imposed by the second
20 sentence of subsection (a) and subsection (c).

21 “(D) Any determination made pursuant to sub-
22 section (d)(2) to waive or disregard another provi-
23 sion of law to undertake any construction project
24 using the construction authority described in sub-
25 section (a).

1 “(E) The military construction projects, includ-
2 ing any military family housing and ancillary sup-
3 porting facility projects, to be canceled or deferred
4 in order to provide funds to undertake construction
5 projects using the construction authority described
6 in subsection (a) and the possible impact of the can-
7 cellation or deferment of such military construction
8 projects on military readiness and the quality of life
9 of members of the armed forces and their depend-
10 ents.”; and

11 (2) by adding at the end the following new
12 paragraph:

13 “(2) In the event of a declaration by the President
14 of a national emergency in which the construction author-
15 ity described in subsection (a) is used, a construction
16 project to be undertaken using such construction authority
17 may be carried out only after the end of the five-day pe-
18 riod beginning on the date the notification required by
19 paragraph (1) is received by the appropriate committees
20 of Congress.”.

21 (e) CLERICAL AMENDMENTS.—Section 2808 of title
22 10, United States Code, is further amended—

23 (1) in subsection (a), by inserting “CONSTRUC-
24 TION AUTHORIZED.—” after “(a)”;

1 (2) in subsection (b), by inserting “NOTIFICA-
2 TION REQUIREMENT.—(1)” after “(b)”; and

3 (3) in subsection (e), as redesignated by sub-
4 section (a)(1), by inserting “TERMINATION OF AU-
5 THORITY.—” before “The authority”.

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